

MONO COUNTY PLANNING COMMISSION

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MINUTES May 10, 2007 (Adopted July 12, 2007)

Commissioners present: Scott Bush, Paul Rowan, Steve Shipley. **Absent:** Ron Black & Sally Miller.

Staff present: Scott Burns, director; Keith Hartstrom, principal planner; Gwen Plummer, associate planner; Evan Nikirk & Walt Lehmann, public works; Allen Berrey, assistant county counsel; C.D. Ritter, commission secretary.

1. **CALL TO ORDER:** Vice Chair Scott Bush called the meeting to order at 10:07 a.m.
2. **PUBLIC COMMENT:** No items.
3. **MEETING MINUTES:** Review and adopt minutes April 12, 2007. (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.)

4. **PUBLIC HEARINGS:**

A. TENTATIVE PARCEL MAP 35-35/Patel. The proposed project would divide APN 24-250-02, totaling 160.56 acres, into three clustered lots of 10 acres each. The parcel is located in southern Adobe Valley west of Benton Hot Springs, and seven miles west of the intersection of U.S. 6 and Hwy. 120 at the junction of Hwy. 120 and Benton Crossing Road. The section of the parcel crossed by Hwy. 120 has been identified as the 130-acre remainder and is not proposed for subdivision. One access for the three lots is proposed from Benton Crossing Road, a County-maintained road. In accordance with Section 15183 of the CEQA Guidelines, a prior EIR is being used for this project. The General Plan designation is Resource Management (RM). *Staff: Gwen Plummer*

Gwen Plummer presented an overview, indicating that the 130-acre remainder has now been designated as a fourth parcel. Conditions: Change all references to remainder parcel; include parcel 4 in #33; and comply with CDF fire-safe requirements, #38.

OPEN PUBLIC HEARING. Andy Holmes of Triad/Holmes Associates, representing the applicant, suggested building the house away from the Scenic Highway. After discussion, it was recommended that either all building envelopes be close, or else set 40-acre minimums. Holmes indicated the applicant would consent to four 40-acre parcels to limit overall development.

Supervisor Hap Hazard indicated that community dialog adamantly opposed clustering. With no shortage of open space, spreading the open space between structures would keep a rural look. Plummer indicated that DFG prefers clustering to preserve open space. **CLOSE PUBLIC HEARING.**

DISCUSSION: Commissioner Shipley questioned the area's look 20-30 years from now. If development continues to spread and smaller parcels evolve, owners likely would want their own 40 acres. Open space is preserved now, but limits future development. Ten acres still provides substantial area. If clustering occurs, restrict the building envelope to a 20-acre vicinity, building on 10 acres and leaving the other 10 acres open.

MOTION: Approve first Tentative Parcel Map 35-35 as amended (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.): 1) Reword #33 to read: "Parcels 1 through ~~3~~ **4** shall be a minimum lot size of 10 acres each, and provide a minimum 50-foot setback for buildings and accessory buildings from all property lines." 2) Reword #37 to read, "Parcel 4 will restrict lot disturbance to 10 acres adjacent to

DISTRICT #1
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Paul Rowan

DISTRICT #2
COMMISSIONER
Steve Shipley

DISTRICT #3
COMMISSIONER
Ron Black

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Sally Miller

parcel 3 within an identified 20-acre area. Development shall be sited to minimize visual impact from Scenic Highway 120. The applicant shall record a covenant on the deed for parcel 4, restricting it from further subdivision unless additional density is first granted through a general plan amendment. This shall be noted on the final map." 2) Change all references to a remainder to read parcel 4.

***Schedule workshop on cluster development.**

B. TENTATIVE PARCEL MAP 31-94/Carlson. The proposed project on 169 acres (APN 01-150-04 & -05) consists of re-subdividing the two parcels into four lots (32.47, 10.31, 10.03 & 10.00 acres) and a remainder of 103.08 acres. The property is located at the end of Eastside Lane at the Nevada border. In accordance with Section 15183 of the CEQA Guidelines, a prior EIR is being used for this project. The General Plan designation is Agriculture with a 10-acre minimum (AG 10). Staff: *Gwen Plummer*

Gwen Plummer reviewed the project, and noted that Condition #36 satisfies the DFG requirement.

OPEN PUBLIC HEARING. Bruce Woodworth, applicant's representative, requested a recreational easement for a longtime hiking loop. A USGS quad map shows use by equestrians, hikers, OHVs and pickups since the 1980s. Given its historic public use, he inferred a dedication. The point is what to do about that dedication -- make it a map condition, or a cloud would exist on the title for a future buyer. The owner could provide a new route depending on where he builds. Plummer indicated that staff has concern that the loop goes through a deer route and also may be considered trespassing. Carlson offered a portion to build a new path, but it's in an area DFG would like to preserve, and it would create another road. **CLOSE PUBLIC HEARING.**

DISCUSSION: Allen Berrey encountered this matter on commission field review Feb. 1. His concern was that Mono couldn't depict it on a map unless it had been recorded and established. If Department of Public Works and CDD thought it appropriate, it could qualify as an alleged, acclaimed or asserted easement. An easement could be created: 1) Proponents go to Superior Court to prove that the easement meets all legal requirements, obtain a decree that establishes implied dedication, and record it as a legal interest held by the public. Mono would be obliged to note the easement on a map and recognize it when configuring subdivision. Only Superior Court can make a legal determination, not Planning Commission or Mono Supervisors. Woodworth et al. could file a lawsuit. 2) Mono County, in considering subdivision maps, often extracts dedications, fees, etc. from a developer. Under the U.S. Constitution, there must be a connection. In this case, Mono cannot extract a public easement because the proposed subdivision does not impact public access.

REOPEN PUBLIC HEARING: The only access denied to the public would be to Carlson's property. Woodworth contended it was not the full historic and traditional use. Commissioner Bush replied that *any* development changes public use. **CLOSE PUBLIC HEARING.**

MOTION: Approve Tentative Parcel Map 31-94, with revisions to conditions (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.):

1) #34: "An offer of dedication shall be made for a 60-foot-wide right-of-way for street, drainage, and utility purposes centered on the current alignment of Eastside Lane. On Parcel 2, a 40-foot-wide offer of dedication for street right-of-way, drainage, and utility purposes shall be made for the access road adjacent to the state line as shown on the Tentative Parcel Map. Must be satisfied prior to final approval of the parcel map."

2) #36: "Future residential development *should* use fence designs that allow movement of wildlife through the site."

3) #41: "The designated remainder may be subsequently sold at a later date, but the *owner* must file a certificate of compliance or conditional certificate of compliance with the Mono County Department of Public Works prior to the sale (§66424.6(d). This shall be noted on the final map."

4) Adopt option C.1: "As proposed, approve Tentative Parcel Map 31-94 subject to modification allowing clustering of 169 acres on APNs 01-150-04 and -05. The project consists of re-subdividing the two parcels into four lots of 32.47, 10.31, 10.03, 10.00 acres and leaving a remainder of 103.08 acres in order to comply with the General Plan Conservation Open Space Policy, Objective A, Policy 2:

which is, outside existing communities, cluster development in order to maximize open space, and be subject to the conditions of approval and mitigation monitoring program as contained in project staff report.”

5) Do not address C.3 regarding “alleged or claimed” public access easement.

C. MAP MODIFICATION 06-01/Searles. The proposal is to modify the current map and to assign mitigation measures to allow a horse corral and small swimming pool outside the approved building envelopes on the 2-acre parcel (APN 64-220-06). The property is located in the Swall Meadows community, west of Rock Creek. *Staff: Gwen Plummer*

Gwen Plummer reviewed the modification request. Commissioner Shipley recalled the problem as restriction of where things could be set. There was no way to address the pool disturbance area. Plummer indicated that a consultant proposed mitigation measures. The pool is for swimming, has no chlorine, and is wildlife friendly with a scamper ramp. A fire hose and pump would be set up for fire response.

OPEN PUBLIC HEARING: Applicant Carol Searles explained that clearing occurred when the road was built, but the Searles got blamed for the site disturbance. **CLOSE PUBLIC HEARING.**

DISCUSSION: Commissioner Shipley indicated that the Searles have done more than their share of work, the place is immaculate, and the pool is nice.

MOTION: Approve Map Modification 06-01 with Mitigation Strategy #1 incorporated as Condition #12 in the Amended Conditions of Approval and Mitigation Monitoring Program (Attachment C). (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.) The following conditions were approved:

#12: “The mitigation measure selected by the Planning Commission is: Based upon JBR calculations, 15,290 sq. ft. or 0.35 acres of the Searles property was disturbed by the pool and corral. The applicant has been actively revegetating the property per the requirement of Grading Permit #02-14 issued on September 24, 2004 (Attachment A), except for the pool and corral area, and has planted 140 trees, revegetated approximately 22, 500 sq. ft.. Require this revegetation, together with the additional landscaping recommended in the Searles Parcel Mule Deer Habitat Assessment (Attachment B and JBR’s Attachment A), to be maintained and monitored for five years to ensure revegetation success. Also, require that the pool be of a wildlife friendly design and serve as a local water source for wildlife.”

#13: “The pool shall include a shallow end that would allow deer, including fawns, to easily exit the pool, should they fall in.”

#14: “Grading and building permits shall be required for the construction of the pool per the regulations of Department of Public Works and Community Development Department/Building Division.”

#15: “Require recordation of these new conditions and an illustration of Attachment D concepts regarding building envelopes and revegetation requirements in a form acceptable to the Public Works director.”

5. ACTION ITEMS:

A. FINAL APPROVAL OF PARCEL MAP 31-89/Johnston. Parcel Map 31-89 will divide APN 02-460-24, totaling 10.05 acres into two parcels, one of 5.00 acres and one of 5.05 acres in size. The property is located in Antelope Valley fronting on Eastside Lane, approximately 625 feet southeast of Larson Lane. The General Plan designation for the property is Rural Residential with a 5-acre minimum lot size (RR 5). The tentative parcel map was approved at a public hearing conducted by the Planning Commission on May 12, 2005. *Staff: Evan Nikirk*

Evan Nikirk reviewed the map. A subdivision agreement is scheduled at the Mono Supervisors meeting May 15 for utility installation. No CC&Rs exist. An irrigation ditch through the property is noted on the map for Antelope Valley Mutual Water Co. The ditch is recorded as an open-space corridor, not an easement. The proposal is a simple split, with no offers of dedication.

OPEN PUBLIC HEARING: No comment. **CLOSE PUBLIC HEARING.**

MOTION: Authorize chair's signature on Parcel Map 31-89, indicating its approval. (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.)

B. FINAL APPROVAL OF PARCEL MAP 31-90/Dockum & Hefner. Parcel Map 31-90 will divide APN 02-440-20, totaling 40 acres into four parcels of approximately 5.0 acres each and a remainder parcel of 19.2 acres. The property is located in the Antelope Valley at the southeast corner of U.S. Highway 395 and Larson Lane and access will be provided by a cul-de-sac entering from Larson Lane. An existing residence is located on the remainder parcel. The General Plan designation for the property is Rural Residential with a 5-acre minimum lot size (RR 5). The tentative parcel map was approved at a public hearing conducted by the Planning Commission on November 10, 2005. *Staff: Evan Nikirk*

Evan Nikirk noted that subdivision improvements would be completed under an agreement with Mono County. Mono Supervisors will consider the map May 15. Applicants Dockum and Hefner were present.

OPEN PUBLIC HEARING: Andy **CLOSE PUBLIC HEARING.**

MOTION: Authorize chair's signature on Parcel Map 31-90, indicating its approval. (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.)

C. FINAL APPROVAL OF TRACT MAP 37-51/Wofford. Tract Map 37-51 will divide APN 26-090-38, totaling 92.54 acres, into 17 lots ranging in size from 2.02 acres to 9.45 acres, with an average lot size of 5.44 acres. The property is located approximately 1-1/2 miles north of the community of Chalfant on the west side of U.S. Highway 6. Access to the subdivision will be provided by two roads entering from U.S. Highway 6. The General Plan designation is Rural Mobile Home, with two- and five-acre minimum lot size (RMH2 and RMH5). The tentative parcel map was approved at a public hearing conducted by the Planning Commission on July 15, 2003, and a second one-year extension was granted at a public hearing conducted by the Planning Commission on July 13, 2006. *Staff: Evan Nikirk*

Evan Nikirk indicated the remainder parcel would be subdivided. Access would be via two roads not built to County standards. Mono Supervisors will consider the map May 15. Applicants Wofford and Toomey were present.

OPEN PUBLIC HEARING: Andy **CLOSE PUBLIC HEARING.**

MOTION: Authorize chair's signature on Parcel Map 37-51, indicating its approval. (Shipley/Rowan. Ayes: 3-0. Absent: Black & Miller.)

6. WORKSHOP: No items.

7. REPORTS:

A. DIRECTOR: No items.

B. COMMISSIONERS: Shipley mentioned the Crowley Mutual tank. Burns suggested considering county service areas as an option rather than mutual water companies or homeowner water systems.

8. INFORMATION: No items.

9. ADJOURN: 12:20 p.m.

Respectfully submitted,
C.D. Ritter, commission secretary